IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

WTA No.22 of 2005
Date of decision:12.10.2006

Haryana Warehousing Corporation,

....Appellant

versus

Assistant Commissioner of Wealth Tax, Panchkula

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. M.L.Garg and Mr. Rajesh Garg, Advocates,
for the appellant.

Mr. Yogesh Putney, Advocate, for the respondent.

JUDGMENT:

1. This appeal has been preferred by the assessee proposing following substantial question of law:-

> "Whether the Appellate Tribunal was right in law in holding that jeeps are motor cars within the definition of section 2(ea(ii) of the Wealth Tax Act and are thus assets liable to wealth tax?"

2. The assessee is a Corporation established by the State of Haryana. Assets of the assessee liable to wealth tax included jeeps. Contention of the assessee is that the jeeps were not covered by the definition of "assets" under section 2(ea) (ii) of the Wealth Tax Act, 1957 (for short, 'the Act'),which mentioned the word "motor cars". This objection was rejected by the authorities below including the Tribunal following judgment of the Madras High Court in **Thirumagal Mills Limited v. Commissioner of Wealth Tax,** (2000) 246 ITR 800.

3. We have heard learned counsel for the parties.

4. We do not find any reason to exclude "jeeps" from the expression "motor cars" from the definition of "assets", having regard to the

object of the statute in question. We are in agreement with the view taken by the Madras High Court in **Thirumagal Mills Limited's** case (supra) and **Southern Roadways Limited v. Commissioner of Wealth Tax,** (2000) 251 ITR 213. In **Southern Roadways Limited's** case (supra), while considering the same issue in the context of section 40(2)(vii) of the Finance Act, 1983, it was observed:-

> "When the term "motor car" is used in a statute, the meaning to be assigned to it would depend upon the context in which it is used and purpose of the statute, as also the scheme of a particular provision. Whereas, in the Tamil Nadu General Sales Tax Act, to which counsel referred, general classes of motor vehicles are set out, and "jeep" will have to be distinguished from a "motor car", which is also used in the relevant entry in that Act, the Income Tax Act merely refers to a motor car and does not mention any other motor vehicle. That term in the Income Tax Act is meant to be an all inclusive term meant to encompass all vehicles, which can properly be regarded as "motor cars" in a broad sense. The absence of a definition in the enactment does not come in the way of such a construction. It is the duty of the court to ascertain the meaning of the terms employed in the enactment and give effect to the meaning so ascertained. While doing that task, the court does not rewrite the law, nor does it supply a omission, which it has noticed in the Act. In a taxing statute, whenever the court finds ambiguity, it would generally lean in favour of the assessee. However, in order to lean in favour of the assessee, the court is not bound nor should it discover ambiguities where there are none.
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> The object of including "motor car" in Section 40 of the Finance Act, 1983, was to refer to motor cars as "assets", which are required to be taken note of while computing the net wealth of closely held companies. "Assets" referred to in the relevant provision cover a wide spectrum starting from gold, covering precious stones, metals, lands, buildings, debts as also motor cars. Having regard to the context in which the term is found in the provision, it is meant to cover all motor vehicles other than heavy vehicles, such as lorries and buses, which are normally plied for hire."

5. Respectfully following the above view, we are of the view that the Tribunal rightly held that the expression "motor cars" included "jeeps"

for purposes of Section 2(ea) (ii) of the Act.

6. Accordingly, the appeal is dismissed.

(Adarsh Kumar Goel)
Judge

October 12, 2006
'gs'

(Rajesh Bindal)
Judge